

**CITY OF TAKOMA PARK, MARYLAND
(ADOPTED 2/14/05)**

**INTERVIEWS, SPECIAL SESSION, WORKSESSION & CLOSED SESSION
OF THE CITY COUNCIL**

Monday, March 15, 2004

OFFICIALS PRESENT:

Mayor Porter	City Manager Finn
Councilmember Austin-Lane	City Clerk Waters
Councilmember Barry	ECD Director Daines
Councilmember Elrich	Community & Government Liaison Ludlow
Councilmember Mizeur	Senior Planner Inerfeld
Councilmember Seamens	Planner Blanchard
Councilmember Williams	

The Council convened at 7:36 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

PUBLIC COMMENTS

Keith Berner, 7902 Flower Avenue recalled that Washington Adventist Hospital (WAH) instituted a moratorium for filing a special exception application related to their campus expansion. This was an opportunity to discuss a compromise to address some of the residents' concerns. We have learned that the hospital intends to end the moratorium. They intend to proceed with their application and the process to build an office space on their campus. They indicated that there is not an acceptable off-campus site. There are a couple of compromise locations, but they would not be available in the immediate future. Hospital representatives made it clear that the moratorium was not intended to move the entire development off campus, but to instead, look for additional public monies and to look for additional spaces off-site for more office space. He called on the Council's assistance in determining whether the hospital ever meant to look for compromises. They have indicated that they will pursue additional monies from the County. The hospital plans to proceed with its application filing which will start the legal process. The Council needs to make its position clear and communicate concerns to the County Council.

Ms. Porter asserted, if they do move forward, the Council has an opportunity for input. The City will take advantage of that.

Ms. Austin-Lane asked whether it makes sense for the Council to go ahead and take action now that we know the hospital's intention (prior to the special exception application submission).

Ms. Porter added that if the thought is that we could prevent them from filing the application, she

would not think of it as a successful strategy. She is working to get more information on the matter and is talking with County Council representatives.

Ms. Austin-Lane said we need to make clear how the hospital and Folger-Pratt are partnering. It has been unclear in their previous presentations.

Keith Berner said he has the information that Ms. Austin-Lane is requesting and would be happy to share the details.

FOR THE RECORD

1. Mayoral Proclamation - Declaration of March 20th as “Arts and Humanities Day in Takoma Park”.

Ms. Porter announced that the Arts and Humanities Commission (AHC) murals will be unveiled and installed on Saturday, starting at 2:00 p.m. at the municipal building. She invited the audience to participate. She noted the existing murals around the perimeter of the chambers are all quite impressive.

Mr. Williams asked whether there is there still some thought that the Council will be judging the murals.

Ms. Daines responded that this, initial idea has gone away.

Ms. Porter expressed her appreciation. It would have been a difficult task, since all are so well done.

Ms. Austin-Lane said she was excited about the project. She hoped that many will participate in the event on Saturday.

INTERVIEWS

2. Nuclear Free Takoma Park Committee (NFZ Committee).

The committee interviewed Jim Kuhn, Robert Rini and Jay Levy for reappointment to the committee. Applicants provided an update on the activities of the committee.

Applicants and the Council discussed the overlapping efforts of Council appointed committees, in particular the efforts of the NFZ Committee and the Committee on the Environment (COE).

Ms. Porter noted that the matter of the structure of the COE still needs to come back before the Council for final resolution. She suggested that one or more of the applicants hand around information for the later presentation regarding the transportation of hazardous waste.

SPECIAL SESSION

3. 2nd Reading Ordinance re: Takoma Park Transportation Committee.

Ms. Daines announced that since last week's meeting, she had incorporated the Council's revisions in the second reading ordinance. She noted the changes. We eliminated the restriction on term limits. She revised the language related to committee members presenting personal views and provided for additional briefings beyond the annual report to the Council.

Ms. Porter said they did not decide on the name for the committee.

Ms. Austin-Lane preferred the title of "Safe Roadways Committee."

Ms. Porter said both names have pros/cons. The "Transportation Committee" suggests a more broad mission; however, "Safe Roadways Committee" seems to be more limiting. We want the committee to address transit.

Ms. Austin-Lane said she wants the committee to retain the name it started with at the grass roots level. She likes the continuity between what the residents came up with and what the Council is now establishing—seems symbolic and important.

Councilmembers Elrich, Williams and Barry collectively said they do not have a preference about the name.

Ms. Mizeur concluded that while she does not care, she would lean towards "Safe Roadways Committee."

Ms. Porter noted the Council consensus to go with the title of "Safe Roadways Committee."

Ms. Daines commented that all previously stated instances of the name of the committee would need to be changed.

Moved by Elrich (with the amendments and intention of changed title); seconded by Austin-Lane.

Ms. Austin-Lane said she would like to propose that the membership be expanded. How is the AHC structured?

Ms. Daines replied that there are up to 15 members. The current membership is at 15.

Andy Keleman, Chair of Public Safety Citizens Advisory Committee (PSCAC) repeated his comments of last week--numbers are against a committee when a committee is rather small. He thinks that increasing the number would make it more likely to succeed.

Ms. Austin-Lane asked Mr. Keleman for a suggestion about the membership number.

Mr. Keleman replied that he would recommend 9 members, as a minimum--11 would probably be better.

Mr. Elrich suggested a minimum of 7 and a maximum of 11.

Ms. Porter said that she did not want the Council to set a minimum because it would present a problem if the appointed membership fell below that number.

Ms. Austin-Lane proposed up to 11 members.

Ordinance #2004-08 was adopted unanimously, as amended (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Williams; ABSENT: Seamens).

ORDINANCE #2004-08
(Attached)

4. 2nd Reading Ordinance re: Construction Management Contract.

Moved by Elrich; seconded by Austin-Lane.

Ordinance #2004-09 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Williams; ABSENT: Seamens).

ORDINANCE #2004-09
(Attached)

5. Single Reading Ordinance re: Police Mobile Computer Software.

Moved by Elrich; seconded by Barry.

Ms. Porter said the item has been discussed most recently in Worksession and several times in the past.

Ordinance #2004-10 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Mizeur, Williams; ABSENT: Seamens).

ORDINANCE #2004-10
(Attached)

WORKSESSION

6. Carroll Avenue Streetscape Project.

Ms. Daines said she would like to have members of KCI introduce themselves. The project is being managed by staff members Ilana Blanchard and Rob Inerfeld. We have spent the last month-and-a-half reaching out to the community about improvements that are possible along Carroll Avenue.

Ms. Blanchard noted a letter from M-NCPPC with some of their comments.

(Technical staff prepared for a PowerPoint presentation.)

BREAK - The Council took its evening break at 8:18 p.m. and reconvened at 8:25 p.m.

Ms. Blanchard gave a presentation on the Carroll Avenue Streetscape Project. It had its kick-off on January 29. We have been working on it since that time and would like the Council's endorsement. The presentation will cover the community process, design objectives and overview, constraints and cost estimates. About the community process, six workshops were held with residents (Old Town Carroll Residents, Takoma Tower, Westmoreland Area Community Association (WACO)) and with commissions and non-profits that are shareholders in the project. Traffic calming options were identified. Connectivity and accessibility were objectives of the project. The environment was also an important factor. The design focuses on improving the southern side of Carroll Avenue with some improvements to the Northern side of the street. The improvements will be made within the existing curbs. They are proposing to add crosswalks, primarily near Columbia but are also asking State Highway Administration (SHA) for a mid-block crosswalk. We are asking that residents provide a voluntary easement across the front of their properties; we will not be forcing residents or paying them for the easements. Consultants are proposing to narrow some of the wider driveway aprons on the northern side. At the intersection of Columbia/Carroll many changes are proposed. They want to define the intersection through use of bike lanes and crosswalks, and also to build-out the sidewalks on both sides of Carroll by about 6 feet. This will create a smaller turning radius which will cause motorists to slow down when turning onto Columbia. They are working with a property owner to build a sidewalk on private land and plant grass in the location of current sidewalk. It is a difficult area for pedestrians.

Ms. Blanchard remarked about the Tulip Avenue intersection. The bicycle lanes would end at this intersection. She noted that persons waiting on the bus can block the sidewalk, causing people to step out into the roadway. We consider an optimal sidewalk width for this area to be 6 feet. She commented on the Westmoreland Avenue intersection as another problem area for pedestrians and vehicles. We are proposing to build-out the curbs, bringing the crosswalk up closer to the travel lane. There is a bump-out shown on the northern side; this element is on of the "add-ons" to the plan. There are a number of these items that will be dependent on future additional funding.

Mr. Elrich asked about the parking spaces.

Ms. Blanchard noted that there would be one parking space that would be lost, but we would be

adding a space back at a different location. She described the Laurel Avenue intersection proposals—things that probably will not fit in the budget, but things that should be considered for the future. She commented on the plan for Laurel Avenue and the outcomes of the most recent community meetings regarding this design. We are eliminating the curb and making the median at street level. The tree boxes will be round. We will be using plant boxes and bollards to distinguish the median from the roadway. She noted the center of the median where the proposal is to leave it as open space without trees. She described the plans for the Eastern Avenue intersection--shortening the crossing distance at the entrance to the City. This provides an opportunity for more plantings or other decorative options. She explained some of the constraints. SHA controls everything that is within their right-of-way. We are asking for exceptions on lane width, curb radiuses, width of driveway aprons and crosswalks. SHA has very specific standards for all of these issues. We are asking them to recognize the historic characteristics and the pedestrian nature of this area. She noted the funding limitations and availability. Funds must be encumbered by June 30. She provided an overview of the cost estimates and explained how cost estimates were developed. They have better estimates for the residential portion and are working to refine the estimates for the commercial area. They have identified the ranking of priorities for the project.

Ms. Blanchard provided a breakdown of the residential portion of the project (\$375,000). Bollards in the residential area currently exist at Columbia and would have to be replaced. There is also the high cost item of a retaining wall—items included in the other site features. She commented on the ranking of priorities for the commercial/mixed use area (\$259,060). She identified the items which we are not certain will be possible with current funding, but items that are desired for the project. When we looked at the Laurel Avenue median, the cost came out to \$91,069 (included in the commercial/mixed use total).

Ms. Blanchard introduced the KCI representatives: Marianne Kiernan, Tim Miller, and Tobi Kester.

Mr. Inerfeld noted that KCI has worked in a really compressed time period. We appreciate the work that they have put into this project. Staff had hoped to be further along with the design and cost estimates for the business community, but have not been able to progress any quicker. He thanked everyone who has contributed to the process.

Mr. Elrich asked what will happen if we do not get all of the exceptions requested from the State. Do we have a design without the exceptions?

Ms. Blanchard said that it depends. One exception has to do with the width of the center lane.

Mr. Inerfeld added, according to SHA there is automatically a crosswalk at any intersection even though it may not be striped. There was a pedestrian count done yesterday and another will be done this weekend in the vicinity of Columbia and Carroll.

Mr. Elrich commented, with respect to the voluntary easements, we do not want to be in position

where things have to be drastically revised if we do not get the easements and exceptions from the State. We should have a project plan that could go forward with a “viable plan.” This cannot be a situation where things looked unanticipated if we do not get everything on the wish list. This has to fit within the budget.

Mr. Inerfeld said that there are certain themes that we are carrying through the project for example, street trees. There will be a continuous theme of a tree canopy in the area. We asked the residents if they wanted all new sidewalks or just a repair of the problematic sidewalks, which would allow us to use the remaining funds for other aspects of the project. The emphasis is really on pedestrian safety. We will get as many elements incorporated as possible.

Mr. Elrich stated that he likes the presentation and the concept plan, but that he is concerned about the deadline to encumber the monies.

Ms. Porter said that one reason we have to do this instead of SHA is because monies for the State program dried-up in the previous year’s State budget. There is some discussion about funding for this program coming back, but that remains uncertain. As we move through the process we should identify the elements that could be funded with State monies if later made available, and not put those elements at the top of the list. We will know better at the end of the legislative session.

Mr. Inerfeld suggested that the Council identify the things that we have already designed for the project.

Mr. Seamens thanked staff for the presentation. In terms of the voluntary participation of the residents in the one section of the plan, the design is very dependent on their agreement. What is sense of whether residents will agree?

Ms. Blanchard said she has talked to about 80% of the property owners. Across the whole area, there is about 70% support. In the residential area, there is about 50% support for the full easement request. Some are willing to commit a small width. There are still a number of residents that need to be contacted.

Mr. Seamens observed that it seems that if there is even one resident who does not want to participate it would kill the whole project.

Ms. Blanchard clarified that in community meetings, staff talked about meandering the sidewalk around the properties where owners do not want to give the easement.

Mr. Seamens spoke in favor of more trees.

Ms. Austin-Lane concurred that this community process has been excellent. Staff has really notified the community of the timeline and provided information as it was available. “Thank you very much.” She noted that there was one proposal at the last meeting that intrigued her.

There was a lot of good feedback on the riverwalk idea for the Laurel Avenue median. People liked the idea of a contoured appearance that persists down Carroll Avenue. She expressed her support for a continuous theme down Carroll Avenue, especially as we tie-in a solution in places where residents do not want to provide a maximum easement. She echoed the comments of other Councilmembers regarding working within budget and asked that the Mayor recognize the comments from some of the residents in the audience.

Mr. Williams liked the fact that the pieces of the project were cost-out and ranked in priority order. It is a good approach and helpful in deliberations. With regard to the question about our ability to get the striped crosswalks, what type of exception are we seeking?

Ms. Blanchard responded that SHA provides a warrant to get a crosswalk (190 crossing at a location, 20 school children crossing at a location, or 100 people over 4 consecutive hours crossing at a location). She noted the pedestrian counts. If we get a warrant, we would not have to get an exception. A letter has been sent to Charlie Watkins requesting the exceptions. It is fairly detailed. Community & Government Liaison Ludlow is working with Mr. Watkins' deputy regarding the project.

Mr. Williams questioned whether we would still get the crosswalk if the location does not meet the warrants.

Ms. Blanchard replied in the affirmative. In addition, we would also continue requesting a mid-block crosswalk.

Ms. Porter clarified that the exploration of options for downtown Silver Spring has also required a different look at heavily congested areas. She suggested that staff frame this as a very urbanized area.

Ms. Blanchard said she had requested that this be a pilot project to be studied by the Transportation Research Board.

Mr. Inerfeld remarked that the letter to SHA was very detailed.

Mr. Williams stated that the SHA has heard this concern for years.

Ms. Porter commented that this is part of an overall project. SHA looks at individual requests for crosswalks differently than when included in an overall project plan. She asked whether staff has made a concerted effort to bring the Farmers Market folks into the discussion.

Mr. Inerfeld replied in the affirmative. John Hyde has attended a couple of meetings. There were a couple of other Farmers Market folks at other meetings.

Ms. Austin-Lane said that she has heard from some of the folks and that they are in support of the proposed changes to the median. She expressed her interest in this being made a project

priority, adding that she would also like to make sure that signals are equipped for the visually impaired.

Ms. Blanchard confirmed that there will be detectible warnings on the ramps. Because they were not addressing signals in this plan, more of a SHA issue, the signals will not be altered. However, there will be detectible warnings on the ramps.

Mr. Inerfeld commented on ADA related considerations.

Ms. Austin-Lane asked whether we are going to have a short list of things that we formally request of SHA as we move forward with our part—anticipating that they move forward at the same time.

Ms. Blanchard said that we are asking them to address the exceptions immediately. We will ask them to address the drainage issue at Tulip. There are also some signal issues. We could ask them to install auditory signals.

Mr. Inerfeld noted that KCI is developing the design documents that have to be submitted to the State (50% of the design plan).

Marianne Kiernan (KCI) said that is their hope that SHA will buy into the design, including the exceptions.

Tobi Kester (KCI) added, on the other hand, that they have been working very closely with SHA from the start. We have been putting things that we see as defensible positions in the plan when it comes to the exceptions. In every case, SHA would be improving the street whether for pedestrians or traffic safety in general. A lot of these things are context-specific requests.

Mr. Inerfeld continued that in terms of signals and asking some things of SHA, we are asking them to not allow left-hand turns during the afternoon rush hours (off of Carroll, left onto Philadelphia). We are asking them to look at removing the right-hand turn signal at Carroll (downtown Old Town).

Mr. Elrich asked whether the community has discussed the impact of removing turn opportunities on the residential cut-through traffic.

Ms. Blanchard replied that we have not specifically discussed this with the neighborhood, but if there is significant numbers of turns, SHA would not suppress the turnability. SHA would deny the request.

Ms. Austin-Lane stated that we should not want pit the City against residents. She noted that Dan Burden suggested some type of traffic calming in the area of the fire station. She wants to prioritize the traffic circle in the Junction.

Ms. Blanchard said that the issue of the turn is not the subject of one of the exception requests. The idea was discussed at the last couple of neighborhood meetings. There was some initial concern about cut-through traffic, but there was some recognition that cut-through motorists would look for other routes to get outside of the City.

Mr. Inerfeld clarified that the traffic in the Junction is being addressed separately.

Mr. Williams said, with respect to the left-hand turn, staff should discuss the intersection with all adjoining neighborhood associations. How does the end of the project at the fire station coordinate with other projects in the Junction and plans for the fire station? How does this tie-in with the time frame on the fire station?

Tim Miller (KCI) replied that there has been ongoing work on the fire station, but that he is not aware of current conversations. We have put details on our plans that have been presented to the community, for instance the new fire station layout.

Mr. Williams asked if there is a sense of how any possible redesign in the Junction might get addressed—in terms of timeframe, content or scope.

Mr. Inerfeld replied that we have not submitted a request for SHA to study a round-about in the Junction. SHA contracts with a firm to evaluate a round-about. We are going to put together a letter that really identifies why SHA should conduct a feasibility study in the Junction.

Mr. Williams said he thinks that the Junction traffic got worse with the change in the signalization. People are very frustrated.

Ms. Blanchard clarified that KCI will be submitting the 50% drawings to SHA after obtaining the Council's endorsement. We will continue work on the cost estimates to determine what elements would be put out to bid. We will work with SHA on the exceptions. We will be going through the Historic Preservation Commission (HPC) and will go through the process with the historic trust.

Ms. Porter confirmed that staff will come back to the Council for contract authorization.

Ms. Daines said that staff is looking at whether it would be feasible to piggyback on a current contract we have which would give us some breathing room in terms of encumbering the monies. If it needs to go out to bid, it would have to be done very soon.

Ms. Porter said it will need to come back to the Council with more final information.

Patricia Brown (7119 Carroll Avenue - 2 lots on Carroll; here with husband). We have participated in a number of meetings and have raised some points that probably need some more development. We are one of the land owners who do not plan on giving a 5 foot easement. Because of the slope, we would have to install a retaining wall which would involve a wider

easement. We are concerned about planting strips. They usually have a lot of dying vegetation and grass. We are not sure what will exist along Carroll Avenue. The Arborist indicates that the tree boxes being proposed will not support the size of trees that are being depicted in the designs. We question how you are going to achieve the tree canopy that is being discussed. It seems inappropriate for the character in the Historic District. Many of the existing walls are cracked, having to do with the soil. There have been problems with water mains. We do not know if the water mains on Carroll have been replaced. A question for WSSC - are we going to do all of this work and then have the sidewalks ripped up?

Mr. Green (husband) added that we do not think that the environmental impact has been considered. More concrete would be involved. It is not a green design. He suggested that the concrete be recycled concrete. He asked the Council to not go for the low bidder and to award the contract to a quality product. Do the contingency funds go back into the capital improvements budget for ongoing maintenance of the area?

Andy Keleman said he sat through two of the workshops. He noted a couple of points that were not treated in this presentation. One has to do with Philadelphia Avenue in front of the fire station. He thinks this is at loose ends. Further towards Old Town, there was an issue about what happens in front of Savory (e.g., easement, planters, etc.). At Tulip and Carroll, in front of the auto repair business, we would still have obstructions in the sidewalk. He commented on the drop-off at Westmoreland. He does not think that pushing out the sidewalk and moving the crosswalks does anything for the drop-off. He suggested that a railing be installed. At Carroll and Laurel, he does not think that moving the sidewalks will do much at that corner. He proposed a four-way, no turn signal that allows pedestrians to cross in any direction. He hopes that in the cost estimates demolition is accounted for in the numbers.

Mr. Craig, Carroll Avenue commented on the trees that have suffered along Carroll Avenue and said he would like to know how many trees will be endangered with the 5-foot easement. He requested a careful evaluation from the Arborist.

Ms. Porter said she will make sure that the Arborist is here for next presentation.

Ms. Blanchard said they have a tree report that has been completed. Very few of the trees along that stretch are in good condition.

Ms. Porter asked staff to clarify what would be done to accommodate new trees if the trees that are there are not in good shape.

Milan Pavich asked that the Tree Report be posted on the web site.

Tobi Kester (KCI) remarked about the existing trees. We propose, based on experience, that the trees would have more room to grow. Because of the planting strip, it would allow for more water to get to the roots. The plan creates a much larger area for roots to grow and from which to get water and nutrients.

Ms. Austin-Lane asked how long the plantings are guaranteed.

Tobi Kester (KCI) replied, that generally, there is a guarantee of one year. More recently, SHA has put more maintenance requirements in their contracts. The question is whether SHA would be maintaining the strip. It is something that the City and State could work toward together, based on the existing State agreement language.

Ms. Austin-Lane asked about the maintenance plan.

Ms. Blanchard responded that when the plan is put out to bid, she will include the request that the landscaping company recognize a three year maintenance obligation.

Ms. Austin-Lane inquired what would occur after that time.

Ms. Blanchard said that the proposal is for a low maintenance vegetation.

Mr. Inerfeld clarified that the City is already responsible for maintaining all of the trees on planting strips.

Ms. Blanchard remarked about the importance of a watering contract. With respect to retaining walls, we will be offering the option to property owners the additional cost for an optional stone wall.

Mr. Inerfeld added that these are reinforced retaining walls that would have rebar in them.

Ms. Blanchard answered questions on the planting strips. For the most part, the strips are going to work around the trees in good condition. She thinks that the fair/poor condition trees are largely on the properties where the owners are less willing to participate in the voluntary easement. She commented on the stormwater run-off mitigation. They will be recycling the brick that is moved in the project. They will be providing more shade with the new trees.

Mr. Inerfeld said that contingency funds that may be left over would be used to add elements back into the plan. Any unused monies, would go back to the County/State.

Ms. Blanchard noted the width of the bike lane. As more streets are redesigned, it will be an opportunity to add in more bike lanes. There will be no bike lanes in Old Town for various reasons. In terms of the design in front of the fire station, we are proposing a reconfiguration of the curb ramp opposite the station. We will continue to work on the crosswalk issues.

Mr. Inerfeld said it is also fortunate that KCI is working on the fire station design.

Ms. Blanchard added that they will be raising the curb in front of Savory between the two driveway aprons. They will put in planters to add a vertical element to delineate the roadway. They will check on whether WSSC plans to work in this area.

Ms. Mizeur asked was there any consideration to use the bike path width to make the sidewalk improvements.

Ms. Blanchard responded that they did consider that option. The bike paths are part of the City's Master Plan. We are required to add bicycle paths in this area.

Mr. Inerfeld stated that we could create a shared use pathway on one side of the street, but cyclists would have to cross the street to access the path. He talked to cycling enthusiasts who prefer the separate bike lanes.

Ms. Mizeur said they were talking about cutting the bike lanes out of the project.

Tobi Kester (KCI) responded that what Ms. Mizeur is proposing would be something that SHA would have a harder time approving in the limited time frame because there would be a major change to the roadbed.

Ms. Austin-Lane noted the letters received from Nancy Martin and John Urciolo. The Old Town Business Association (OTBA) President and Old Town Carroll Association (OTCA) President are here this evening.

There was a Council consensus for staff to move forward with the proposed activities.

7. Transportation of Hazardous Waste.

Community & Government Liaison Ludlow introduced Fred Millar of the DC Local Emergency Planning Committee. Ms. Ludlow noted his studies and the mission of the committee. He has been on the committee for 15 years. He has written many articles on the transportation of hazardous materials. There is a Bill being considered by the DC Council addressing the transport of materials via rail and highway.

Fred Millar, DC Local Emergency Planning Committee, reported that it was found that very dangerous cargos continue to be transported through DC. It was so dangerous, that the government has categorized them as weapons of mass destruction. There is a major rail line coming through the City. It comes from the chemical areas in the mid-west, comes down through DC, and then heads back up northeast. There are no chemical institutions in DC. We are along the route. CSX is the rail company owning and controlling the tracks used for the transportation. They come through here with no destination. The no-brainer in this case is to take the hazardous materials away from a target area. We are talking about huge chlorine gas tank cars. We have been talking behind the scenes with the railroad companies, and they acknowledge that DC is a huge terrorist target. The railroad company acknowledges that one can probably get a bill passed by DC, but there would then be a 30 day period for the railroads to appeal to Congress. Congress does not want to have all of the high-threat cities coming forward with the same issue (e.g., Baltimore, Philadelphia, Boston, etc.). Mr. Millar noted conversations with other City officials. Most officials do not want to deal with interstate commerce. But local

jurisdictions can address interstate commerce. New York restricts certain trucks with dangerous cargos to go through the City. He noted the 5 hour hearing that was held before the DC Council. They must be doing something right. We are being opposed by some large interests. This is really a matter of terrorism. Public safety is a jealously protected local porragative. The railroad company would not provide a cost analysis of alternative routes. But alternative routes do exist. He commented on the bill being proposed in DC. A good side of the proposal is that it would not cost the City anything. It would make the City look unique. It is an important thing to do. He does not think it will pass in DC because of the role of the federal government. There are some Montgomery County Councilmembers who are interested in this concern. The Montgomery County (MC) fire officials who are not interested--just misinformed. They will not meet with us. Right after 9/11/2001 the chlorine gas plant was changed to bleach. They got rid of 10 big chlorine gas tank cars. The rail cars are coming within four blocks of the capital. He described the worst case scenario of an explosion of one chlorine tank car resulting in 100,000 people dead in 30 minutes. He commented on the picture he has of the chlorine gas tanker traveling in front of the capital. The most frequently asked question is "don't they want to save their own butts?"

Ms. Porter asked what the City can do.

Mr. Millar suggested the City could pass an ordinance.

Mr. Elrich noted that there is a line on the tax bill related to railroad.

Mr. Millar added that if the Council takes action, the railroad interests would come in and lobby on their own behalf.

Ms. Austin-Lane recalled a different analyses that has been done of terrorist vulnerability. Has this concern been factored into those analyses?

Mr. Millar responded, commenting on accessibility to dangerous chemicals. This is a very porous system. The main railroad bridge over the Potomac, the 14th Street bridge, is a main conduit. The DC bill is supported by several entities--all the people who do not want DC to have an unnecessary terrorist attack. By doing the "no-brainer thing," it can significantly reduce risks.

Ms. Ludlow suggested that we go to the City Attorney and discuss our options, whether it is a City ordinance or working with the County.

Ms. Porter said she talked to our NFZ Committee members about this issue, and they expressed a real interest in this discussion. They should be brought into this discussion.

Mr. Elrich asked whether there is any interest among lawyers that might provide legal support to the City. He does not have any problem with this, but would want to reduce potential liability costs. We would need to attract legal help that would defend our actions. He agreed that doing this with or without the County makes sense if we could get legal support.

Mr. Millar said he was optimistic that we could find some pro bono work. There is no law on this. It is an interesting leverage for now, before the federal government decides to deal with the issue.

Mr. Elrich commented about New York banning certain classes of trucks that travel through the City.

Mr. Millar explained the history, dating back 20 years. Three classes of hazardous trucks are not allowed to move through the City if there is an acceptable alternative route.

Ms. Porter concluded it seems that there are three things that we have to explore: (1) our legal structure in the City--what we can and cannot do; and (2) involvement of the NFZ Committee.

Mr. Millar interjected that the only reason we did not take on nuclear waste, was because there are not large movements of nuclear materials traveling through the area.

Ms. Porter continued that the NFZ Committee has been doing some research. Thirdly, we need to work with Montgomery County. There is some interest there. We would be more effective if we work with the County.

Mr. Williams noted that the National Capital Regional Emergency Preparedness Council may also have some input (COG Committee) that he would like to coordinate. He noted that he is the Vice Chair of the committee.

Mr. Millar said he talked to COG about this concern. They have not wanted to meet with his coalition.

(Ms. Porter noted the technical problems with the intended PowerPoint presentation. Mr. Millar said it is not critical. He can send the Council some photos and more information.)

Ms. Ludlow said she will follow-up on the direction.

Mr. Seamens asked whether Mr. Millar will be checking on the pro bono legal work.

Ms. Porter said there are a couple of interim steps that Ms. Ludlow will follow-up on.

8. City Manager Selection Committee.

Nancy Cohen, Co-Chair of the City Manager Selection Committee was joined by Robert Lanza and some other committee members who will share in the presentation. She noted that Dan Robinson is the other Co-Chair and unable to be here this evening. She commented on how the committee has progressed. We divided into three subcommittees: reporting committee, outreach committee and qualifications committee. She noted the mission for each committee. Mr. Lanza is going to review how the committee would like for the Council to review the applications.

Robert Lanza, City Manager Selection Committee distributed copies of the resume evaluation matrix. He said they would get resumes from Mercer and would be evaluating each with a candidate's score of 0-5 for each of the attributes. They will then have a committee discussion about the rationale for how the score was derived. They will offer each of the committee members the opportunity to score the applications. They expect that Mercer will provide resumes in three groups (top group, middle group, and those not to be considered). We would rate the middle and top groups. We would have a sub-set of our committee take a look at the bottom group. The committee would make a collective decision about which resumes it would like to see move forward and then make that recommendation to the Council.

Ms. Porter asked how many resumes are expected for review.

Mr. Lanza replied that when he was on the Police Chief selection committee, they reviewed 61 resumes. Based on Mercer's presentation, they are expecting that there will be some applicants with limited experience. Those will not be considered.

Ms. Porter summarized her understanding--Mercer will cull-out the applicants lacking qualifications and then rank the remaining applicants into two other groups.

Mr. Lanza replied that if Mercer wants to rank them within the groups, the committee could still work with them. He wants to be able to state that the committee had the opportunity to review all of the resumes.

Nancy Cohen asked if there is a plan that the Council will also be looking at the resumes of the group identified as "highly qualified" by Mercer.

Ms. Porter recalled that last time, the Council got all of the resumes. They were ranked by the consultant. We looked at them and basically, followed the recommendations of the committee when looking at the tier-ranking.

Ms. Austin-Lane recalled Slavin's statement that his recommendations did not get forwarded to the Council. What happened?

Mr. Lanza stated that it had to do with the Police Chief selection. There were resumes that were not provided by Slavin that were considered in the process.

Mr. Williams said he thinks that his comment had to do with resumes that came in after the initial closing date. These were not reviewed by the committee.

Ms. Austin-Lane asked whether they were ever reviewed and stated that she would like to see Mercer's evaluation of all of the resumes, as well as the committee's evaluation of all of the resumes. This is ultimately the Council's decision.

Mr. Elrich confirmed that he would like to get Mercer's recommendations, whether or not it is

consistent with the committee. He would like to hear their comments.

Ms. Porter said that there has to be a first cut. One way to do that is to have an initial culling of the applications, keeping the resumes available for inspection. We need to figure out how this is done. Mercer and the committee could work independently and present their findings to the Council for a final decision.

Mr. Lanza said he was planning to offer all committee members the opportunity to review the resumes. However, a committee member has to review all of the resumes if he/she participates in this element of the process.

Ms. Cohen said she needs to know how the Council wants the committee to proceed.

Mr. Elrich replied that he has been assuming that the committee is going to provide a list, of reasonable length, of the recommended candidates. He would assume that there will be overlap between the committee and the Mercer lists. He would like to know where the lists differ and why.

Ms. Cohen expressed that once the committee completes this aspect of the review and the Council has identified the candidates that it wants to interview, the committee would like to formulate a list of questions that would be used to query the candidates. She explained how the questions will be formulated.

Mr. Lanza continued, suggesting that the communications with the candidates come through Mercer and not from the committee. Once the Council decides on a number of candidates, the committee would formulate questions. Council would review the questions. The questions would be forwarded to Mercer. Mercer would forward the questions to the candidates, and responses would then come back and be reviewed by the committee.

Ms. Porter clarified that Mercer will be coming back for a presentation. We want to hear from them about the next steps. She invited the committee to be part of the discussion with Mercer.

Ms. Cohen continued the presentation about a schedule of activities for potential applicants and their spouses/partners. The committee wants to know its role in the final interview process.

Ms. Porter remembered, the last time we brought a certain number of finalists (8-10 applicants) in for interviews, we interviewed those persons and then decided on some finalists. The finalists were the ones that we interviewed in depth.

Mr. Lanza said that the number of candidates that the committee interacts with is up to the Council. The committee expressed interest in interacting with the top candidates.

Ms. Porter said it sounds like a workable thing to do.

Ms. Austin-Lane expressed she was glad to have this information. She sees the entire process as a collaboration. She proposed to the Council that the committee members be welcome into the interview.

Ms. Porter commented that there remains a question of the size of the group conducting the interview.

Ms. Cohen said she was not feeling a need to be in the actual interview. She would like an opportunity to meet with top candidates informally.

Mr. Keleman suggested they might have two stages to the interview.

Ms. Porter said she did not see a problem having applicants come in and talk to the Council and talk to the committee, separately.

Mr. Lanza suggested that they might participate in an observatory role for the interviews.

Ms. Porter said she would like to think about that. She wanted to hear from other Councilmembers and Mercer.

Ms. Cohen suggested that the three parties should discuss the timeline and sequence of events.

Ms. Austin-Lane noted that Human Resources Coordinator Hampton presented a tentative timeline. Have we looked at it in terms of adding details?

Ms. Porter said she was planning to have Mercer come back with a presentation scheduled for April 5 (meeting being moved to April 7 because of Passover). They will talk about their recommendations for the process.

Mr. Lanza said that the second part of the Mercer presentation was to talk to the Council (April 8).

Ms. Porter remembered, in the last process, the Council crafted some of its own interview questions.

Mr. Williams said that someone needs to let Ms. Hampton know that the meeting is on April 7.

Ms. Cohen inserted that the mutual goal is that in the next couple of weeks we will identify the activities and how we will interact in the activities.

Ms. Porter remarked that we can have a discussion on April 7, but that she wants to think about how to proceed beyond that point.

Mr. Williams said he was not going to sit for a prolonged discussion to work out the details.

Ms. Porter said it might work that some of the Councilmembers may participate in the committee meeting on Thursday night.

Ms. Cohen gave a recap of the presentation.

Ms. Porter concluded that they need to do a lot of coordinating from this point forward.

Ms. Austin-Lane questioned whether the committee will be reviewing resumes before developing questions.

Ms. Cohen offered that their task would be the development of interview questions. They will probably start drafting them soon and may revise them to be more current with what we see in the resumes.

ADJOURNMENT / CLOSED SESSION

The Council adjourned at 11:13 p.m. and immediately convened in Closed Session. Following the Closed Session, the Council adjourned for the evening.

Closed Session 3/15/04 - Moved by Seamens; seconded by Austin-Lane. The Council voted unanimously to convene in Closed Session at 11:13 p.m. in the Conference Room of the Municipal Building. OFFICIALS PRESENT: Porter, Austin-Lane, Barry, Elrich, Mizeur, Seamens, Williams. STAFF PRESENT: Finn, Waters, Silber. The Council received a briefing regarding the negotiations and terms of the "Agreement and General Release" entered into between City Manager Richard Finn and the City of Takoma Park. No action was taken. (Authority: Annotated Code of Maryland, State Government Article, Section 10-508(a)(1)(i)).
